

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

ADJUSTACAM LLC

Plaintiff,

vs.

Civil Action No. 6:10-cv-00329

AMAZON.COM, INC. ;
AUDITEK CORPORATION ;
BALTIC LATVIAN UNIVERSAL
ELETRONICS, LLC D/B/A BLUE
MICROPHONES, LLC D/B/A BLUE
MICROPHONE ;
BLUE MICROPHOBES, LLC ;
CDW CORPORATION F/K/A CDW
COMPUTER CENTERS, INC. ;
CDW, INC. ;
CDW, LLC ;
COMPUSA.COM, INC.
COBRA DIGITAL, LLC ;
CREATIVE TECHNOLOGY LTD. ;
CREATIVE LABS, INC. ;
DELL, INC.
DIGITAL INNOVATIONS, LLC ;
EASTMAN KODAK COMPANY ;
EZONICS CORPORATION D/B/A
EZONICS CORPORATION USA D/B/A
EZONICS ;
FRY'S ELECTRONICS, INC.
GEAR HEAD, LLC ;
GENERAL ELECTRIC COMPANY ;
HEWLETT-PACKARD COMPANY ;
INTCOMEX, INC. ;
JASCO PRODUCTS COMPANY LLC
D/B/A JASCO PRODUCTS COMPANY
D/B/A JASCO ;
JWIN ELECTRONICS
CORPORATION ;
KLIP XTREME LLC,
KMART CORPORATION ;
LIFEWORX TECHNOLOGY GROUP,
LLC ;
MACALLY PERIPHERALS, INC. D/B/A

JURY TRIAL DEMANDED

FILED CLERK
U.S. DISTRICT COURT
2010 SEP -3 AM 8:11
TEXAS EASTERN
BY _____

Defendants.

DEFENDANT PHOEBE MICRO, INC.'S ANSWER AND AFFIRMATIVE DEFENSES

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Defendant Phoebe Micro, Inc. ("Phoebe") files this Answer to the Complaint filed by Adjustacam LLC ("Plaintiff") and pleads as follows:

The Parties

1. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 1 of the Complaint, and therefore denies them.

2. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 2 of the Complaint, and therefore denies them.

3. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 3 of the Complaint, and therefore denies them.

4. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 4 of the Complaint, and therefore denies them.

5. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 5 of the Complaint, and therefore denies them.

6. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 6 of the Complaint, and therefore denies them.

7. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 7 of the Complaint, and therefore denies them.

8. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 8 of the Complaint, and therefore denies them.

9. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 9 of the Complaint, and therefore denies them.

10. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 10 of the Complaint, and therefore denies them.

11. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 11 of the Complaint, and therefore denies them.

12. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 12 of the Complaint, and therefore denies them.

13. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 13 of the Complaint, and therefore denies them.

14. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 14 of the Complaint, and therefore denies them.

15. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 15 of the Complaint, and therefore denies them.

16. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 16 of the Complaint, and therefore denies them.

17. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 17 of the Complaint, and therefore denies them.

18. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 18 of the Complaint, and therefore denies them.

19. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 19 of the Complaint, and therefore denies them.

20. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 20 of the Complaint, and therefore denies them.

21. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 21 of the Complaint, and therefore denies them.

22. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 22 of the Complaint, and therefore denies them.

23. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 23 of the Complaint, and therefore denies them.

24. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 24 of the Complaint, and therefore denies them.

25. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 25 of the Complaint, and therefore denies them.

26. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 26 of the Complaint, and therefore denies them.

27. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 27 of the Complaint, and therefore denies them.

28. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 28 of the Complaint, and therefore denies them.

29. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 29 of the Complaint, and therefore denies them.

30. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 30 of the Complaint, and therefore denies them.

31. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 31 of the Complaint, and therefore denies them.

32. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 32 of the Complaint, and therefore denies them.

33. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 33 of the Complaint, and therefore denies them.

34. Phoebe admits that it is a corporation organized and existing under the laws of the State of California and that it may be served with process through its registered agent. The remainder of paragraph 34 of the Complaint is denied.

35. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 35 of the Complaint, and therefore denies them.

36. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 36 of the Complaint, and therefore denies them.

37. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 37 of the Complaint, and therefore denies them.

38. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 38 of the Complaint, and therefore denies them.

39. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 39 of the Complaint, and therefore denies them.

40. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 40 of the Complaint, and therefore denies them.

41. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 41 of the Complaint, and therefore denies them.

42. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 42 of the Complaint, and therefore denies them.

43. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 43 of the Complaint, and therefore denies them.

44. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 44 of the Complaint, and therefore denies them.

45. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 45 of the Complaint, and therefore denies them.

46. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 46 of the Complaint, and therefore denies them.

47. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 47 of the Complaint, and therefore denies them.

48. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 48 of the Complaint, and therefore denies them.

49. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 49 of the Complaint, and therefore denies them.

Jurisdiction and Venue

50. Phoebe admits that Plaintiff avers that this is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1, et seq. Phoebe admits that Plaintiff avers that jurisdiction is properly based on title 35 United States Code, particularly § 271, and Title 28 United States Code, particularly §§ 1331 and 1338(a). Each and every other allegation contained in paragraph 50 of the Complaint is denied.

51. Phoebe admits that Plaintiff avers venue is proper in this district pursuant to 28 U.S.C. § 1391 (b-c) and § 1400(b). Each and every other allegation contained in paragraph 51 of the Complaint is denied.

Claim for Patent Infringement

52. Phoebe admits that a copy of Plaintiff avers that it filed United States Patent 5,855,343 (“the ‘343 Patent”), entitled “Camera Clip” on March 7, 1997 and that Plaintiff avers that it was legally issued on January 5, 1999. Phoebe is without knowledge or information sufficient to admit or deny the remaining allegations in paragraph 52 of the Complaint, and therefore denies them.

53. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 53 of the Complaint, and therefore denies them.

54. Phoebe admits that Plaintiff avers that the ‘343 Patent covers, inter alia, apparatuses for supporting cameras comprising (1) hinge member notably attached to the camera, the camera rotating about a first axis of rotation relative to the hinge member, (2) a support frame rotatably attached to the hinge member, the hinge member, the hinge member rotating about second axis of rotation relative to the frame, the second axis being generally perpendicular to said first axis, and the second axis being substantially parallel to the first surface of an object, for example, a laptop or portable computer, when the hinge member is supported on the object, (3) the support frame having a first disposition positioned on a generally horizontal, substantially planar surface, for example a table top, and having a second disposition attached to the object, with the camera being maintained adjacent an edge of the object in the second disposition. Phoebe is without knowledge or information sufficient to admit or deny the remaining allegations in paragraph 52 of the Complaint, and therefore denies them.

55. Phoebe admits that a copy of Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 55 of the Complaint, and therefore denies them.

56. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 55 of the Complaint, and therefore denies them.

57. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 56 of the Complaint, and therefore denies them.

58. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 57 of the Complaint, and therefore denies them.

59. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 58 of the Complaint, and therefore denies them.

60. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 59 of the Complaint, and therefore denies them.

61. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 60 of the Complaint, and therefore denies them.

62. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 61 of the Complaint, and therefore denies them.

63. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 62 of the Complaint, and therefore denies them.

64. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 63 of the Complaint, and therefore denies them.

65. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 64 of the Complaint, and therefore denies them.

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67. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 66 of the Complaint, and therefore denies them.

68. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 67 of the Complaint, and therefore denies them.

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111. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 110 of the Complaint, and therefore denies them.

112. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 111 of the Complaint, and therefore denies them.

113. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 112 of the Complaint, and therefore denies them.

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118. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 117 of the Complaint, and therefore denies them.

119. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 118 of the Complaint, and therefore denies them.

120. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 119 of the Complaint, and therefore denies them.

121. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 120 of the Complaint, and therefore denies them.

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124. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 123 of the Complaint, and therefore denies them.

125. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 124 of the Complaint, and therefore denies them.

126. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 125 of the Complaint, and therefore denies them.

127. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 126 of the Complaint, and therefore denies them.

128. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 127 of the Complaint, and therefore denies them.

129. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 128 of the Complaint, and therefore denies them.

130. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 129 of the Complaint, and therefore denies them.

131. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 130 of the Complaint, and therefore denies them.

132. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 131 of the Complaint, and therefore denies them.

133. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 132 of the Complaint, and therefore denies them.

134. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 133 of the Complaint, and therefore denies them.

135. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 134 of the Complaint, and therefore denies them.

136. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 135 of the Complaint, and therefore denies them.

137. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 136 of the Complaint, and therefore denies them.

138. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 137 of the Complaint, and therefore denies them.

139. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 138 of the Complaint, and therefore denies them.

140. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 139 of the Complaint, and therefore denies them.

141. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 140 of the Complaint, and therefore denies them.

142. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 141 of the Complaint, and therefore denies them.

143. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 142 of the Complaint, and therefore denies them.

144. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 143 of the Complaint, and therefore denies them.

145. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 144 of the Complaint, and therefore denies them.

146. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 145 of the Complaint, and therefore denies them.

147. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 146 of the Complaint, and therefore denies them.

148. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 147 of the Complaint, and therefore denies them.

149. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 148 of the Complaint, and therefore denies them.

150. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 149 of the Complaint, and therefore denies them.

151. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 150 of the Complaint, and therefore denies them.

152. Phoebe admits that it has sold an apparatus with a model number Airlink 101 AWCN200 Webcam. Phoebe is without knowledge or information sufficient to admit or deny the remaining allegations in paragraph 152 of the Complaint, and therefore denies them.

153. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 153 of the Complaint, and therefore denies them.

154. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 154 of the Complaint, and therefore denies them.

155. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 155 of the Complaint, and therefore denies them.

156. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 156 of the Complaint, and therefore denies them.

157. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 157 of the Complaint, and therefore denies them.

158. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 158 of the Complaint, and therefore denies them.

159. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 159 of the Complaint, and therefore denies them.

160. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 160 of the Complaint, and therefore denies them.

161. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 161 of the Complaint, and therefore denies them.

162. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 162 of the Complaint, and therefore denies them.

163. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 163 of the Complaint, and therefore denies them.

164. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 164 of the Complaint, and therefore denies them.

165. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 165 of the Complaint, and therefore denies them.

166. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 166 of the Complaint, and therefore denies them.

167. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 167 of the Complaint, and therefore denies them.

168. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 168 of the Complaint, and therefore denies them.

169. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 169 of the Complaint, and therefore denies them.

170. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 170 of the Complaint, and therefore denies them.

171. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 171 of the Complaint, and therefore denies them.

172. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 172 of the Complaint, and therefore denies them.

173. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 173 of the Complaint, and therefore denies them.

174. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 174 of the Complaint, and therefore denies them.

175. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 175 of the Complaint, and therefore denies them.

176. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 176 of the Complaint, and therefore denies them.

177. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 177 of the Complaint, and therefore denies them.

178. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 178 of the Complaint, and therefore denies them.

179. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 179 of the Complaint, and therefore denies them.

180. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 180 of the Complaint, and therefore denies them.

181. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 181 of the Complaint, and therefore denies them.

182. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 182 of the Complaint, and therefore denies them.

183. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 183 of the Complaint, and therefore denies them.

184. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 184 of the Complaint, and therefore denies them.

185. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 185 of the Complaint, and therefore denies them.

186. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 186 of the Complaint, and therefore denies them.

187. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 187 of the Complaint, and therefore denies them.

188. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 188 of the Complaint, and therefore denies them.

189. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 189 of the Complaint, and therefore denies them.

190. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 190 of the Complaint, and therefore denies them.

191. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 191 of the Complaint, and therefore denies them.

192. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 192 of the Complaint, and therefore denies them.

193. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 193 of the Complaint, and therefore denies them.

194. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 194 of the Complaint, and therefore denies them.

195. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 195 of the Complaint, and therefore denies them.

196. Phoebe admits that a copy of Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph ___ of the Complaint, and therefore denies them.

[see paragraph 27]

Demand for Jury Trial

197. Phoebe admits that Plaintiff demands a jury trial on all claims and issues, but denies that Plaintiff is entitled to any relief in this action, including, but not limited to, the relief that Plaintiff requests in its Prayer for Relief.

General Denial

198. To the extent that any allegations of this Complaint are not specifically admitted, Phoebe denies them.

Affirmative Defenses

199. Phoebe asserts the following affirmative and other defenses, and reserves the right to amend its answer as additional information becomes available and additional defenses become apparent.

A. First Defense (No Infringement)

200. Phoebe does not infringe and has not infringed, either directly, contributorily, or by inducement, any claim of the '343 Patent literally or under the doctrine of equivalents.

B. First Defense (No Infringement)

201. Each and every claim of the '343 Patent is invalid for failure to comply with one or more provisions of the patent laws of the United States of America, Title 35, United States Code, including, but not limited to, 35 U.S.C. §§ 101, 102, 103, 112 and/or 116.

C. Third Defense (Limitation on Damages)

202. Plaintiff's recovery for alleged infringement of the '343 Patent, if any, is limited by 35 U.S.C. § 286.

D. Fourth Defense (Patent Marking)

203. Some or all of Plaintiff's claims for relief concerning the '343 Patent are limited by failure to comply with the marking and notice requirements of 35 U.S.C. § 287.

E. Fifth Defense (Equitable Estoppel)

204. The '343 Patent is unenforceable by reason of the doctrine of equitable estoppel.

F. Sixth Defense (Inequitable Conduct)

205. Title 37 of the Code of Federal Regulations § 1.56 and the Manual for Patent Examination Procedure § 2000.01 et seq. requires a duty of candor and good faith with respect to individuals filing and prosecuting patent applications with the United States Patent and Trademark Office ("PTO" or "USPTO"). This duty requires the applicants and individuals responsible for the prosecution of the patent application disclose all information that is material to the patentability of the application under examination by the PTO. The failure to provide such information and breach of this duty of candor, good faith and honesty with intent to deceive the PTO is considered inequitable conduct and renders the patent applied for unenforceable.

206. Upon information and belief, during the prosecution of the application that led to the issuance of the '343 Patent and related patents upon which the '343 Patent claims priority, the inventor, and others involved in the prosecution of the '343 Patent, engaged in a pattern or practice or conduct that violated their duty of candor, good faith and honesty owed by the PTO.

207. Upon information and belief, the inventor and others involved in the prosecution of the '343 Patent, with intent to deceive the PTO, engaged in inequitable conduct during the prosecution of the '343 and related patents. The inventor and others involved in the prosecution of the '343 Patent repeatedly and intentionally violated their duty of candor, good faith and honesty during the prosecution of the '343 Patent and related patents. These acts included, but are not limited to, the inventor and others involved in the prosecution of the '343 Patent intentional failure to disclose information material to the '343 Patent and related patent applications as set forth below. This inequitable conduct renders the '343 Patent unenforceable.

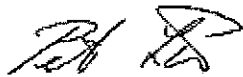
Phoebe reserves the right to seek leave to amend its Answer and Affirmative Defenses to include additional facts or bases of inequitable conduct as they become known.

208. Accordingly, the '343 Patent is unenforceable due to inequitable conduct due to the failure to disclose with the intent to deceive.

WHEREFORE, Defendant Phoebe Micro, Inc. respectfully prays that judgment be entered in its favor and against Plaintiff Adjustacam LLC as follows:

- A) Denial of Plaintiff's request that Phoebe be found to have infringed one or more of the asserted claims of the '343 Patent.
- B) Denial of Plaintiff's request for damages;
- C) Denial of Plaintiff's request for pre-judgment and post-judgment interest;
- D) Denial of Plaintiff's request that this case be declared exceptional
- E) Denial of Plaintiff's request for attorney's fees;
- F) Denial of Plaintiff's request for costs;
- G) Denial of Plaintiff's request for additional or alternative relief,
- H) An award to Phoebe of its attorney's fees and costs and such other relief as the Court finds just and proper.

Respectfully submitted,



Date: September 3, 2010

Peter Lui, General Manager for
DEFENDANT PHOEBE MICRO, INC.
APPEARING PRO SE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was filed with the Court on September 3, 2010 and that service is made to all counsel who are deemed to have consented to electronic service per Local Rule CV-5(a)(3)(A). Any other counsel of record will be served on the above-indicated date with a true and correct copy of this document via U.S. First Class Mail.

Jennifer Parker Ainsworth

Wilson Robertson & Cornelius PC
909 ESE Loop 323
Suite 400
P.O. Box 7339
Tyler, TX 75711-7339
(Attorneys for Defendant Eastman Kodak Company)

Steven Robert Daniels

Dechert LLP - Austin
300 West 6th Street
Suite 1850
Austin, TX 78701
(Attorneys for Defendants Hewlett-Packard Company, Micro Electronics, Inc. DBA Micro Center, Office Depot, Inc., Fry's Electronics Inc.)

David L De Bruin

Michael Best & Freidrich LLP
180 N Stetson Avenue
Suite 2000
Chicago, IL 60601
(Attorneys for Defendant Trippe Manufacturing Company D/B/A Tripp Lite)

David W Denenberg

Davidoff Malito & Hutcher - Garden City NY
200 Garden City Plaza, Suite 315
Garden City, NY 11530
(Attorneys for Defendants Compusa.com, Inc., Systemax, Inc. D/B/A Compusa, Tigerdirect, Inc., New Compusa Corporation)

R David Donoghue

Holland & Knight - Chicago
131 South Dearborn Street

30th Floor
Chicago, IL 60603
(Attorneys for Defendants Jasco Products Company LLC D/B/A Jasco Products Company
D/B/A Jasco, Target Corp.)

Thomas L Duston
Marshall Gerstein & Borun
233 S Wacker Dr
6300 Sears Tower
Chicago, IL 60606-6357
(Attorneys for Defendants CDW Corporation F/K/A CDW Computer Centers, Inc. and CDW,
Inc.)

John J Edmonds
Collins Edmonds & Pogorzelski
1616 S. Voss
Ste 125
Houston, TX 77057
(Attorneys for Plaintiff AdjustaCam LLC)

Roger Joseph Fulghum
Baker Botts - Houston
910 Louisiana
Suite 3000 One Shell Plaza
Houston, TX 77002-4995
(Attorneys for Defendant Dell, Inc.)

Anthony S Gabrielson
Marshall Gerstein & Borun
233 S Wacker Dr
6300 Sears Tower
Chicago, IL 60606-6357
(Attorneys for Defendants CDW Corporation F/K/A CDW Computer Centers, Inc. and CDW,
Inc.)

Allen Franklin Gardner
Potter Minton PC
110 N College
Suite 500

PO Box 359
Tyler, TX 75710-0359
(Attorneys for Defendant Jwin Electronics Corporation)

James E Geringer
Klarquist Sparkman LLP
121 SW Salmon Street
Suite 1600
Portland, OR 97204
(Attorneys for Defendant Amazon.com, Inc.)

Michael D Harris
SoCal IP Law Group LLP
310 N Westlake Blvd
Suite 120
Westlake Village, CA 91362
(Attorneys for Defendants Blue Microphones, LLC and Baltic Latvian Universal Electronics, LLC D/B/A Blue Microphones, LLC D/B/A Blue Microphone)

Paula Diane Heyman
Baker Botts LLP - Austin
1500 San Jacinto Center
98 San Jacinto Blvd
Austin, TX 78701-4087
(Attorneys for Defendant Dell, Inc.)

Benjamin T Horton
Marshall Gerstein & Borun
233 S Wacker Dr
6300 Sears Tower
Chicago, IL 60606-6357
(Attorneys for Defendants CDW Corporation F/K/A CDW Computer Centers, Inc. and CDW, Inc.)

Christopher Michael Joe
Buether Joe & Carpenter, LLC
1700 Pacific Avenue
Suite 2390
Dallas, TX 75201
(Attorneys for Defendant Radioshack Corporation)

Michael E Jones

Potter Minton PC
110 N College
Suite 500
PO Box 359
Tyler, TX 75710-0359
(Attorneys for Defendant Jwin Electronics Corporation)

Salumeh R Loesch

Klarquist Sparkman LLP
121 SW Salmon Street
Suite 1600
Portland, OR 97204
(Attorneys for Defendant Amazon.com, Inc.)

Collin Michael Maloney

Ireland Carroll & Kelley
6101 S Broadway
Suite 500
Tyler, TX 75703
(Attorneys for Defendants Lifeworks Technology Group, LLC and SDI Technologies, Inc.)

Scott F Partridge

Baker Botts LLP
910 Louisiana
Suite 3000 One Shell Plaza
Houston, TX 77002-4995
(Attorneys for Defendant Dell, Inc.)

Erick Scott Robinson

Collins Edmonds & Pogorzelski
1616 Voss
Ste 125
Houston, TX 77063
(Attorneys for Plaintiff AdjustaCam LLC)

Peter I Sanborn

Holland & Knight LLP - Boston
10 St James Avenue

11th Floor
Boston, MA 02116
(Attorneys for Defendants Jasco Products Company LLC D/B/A Jasco Products Company
D/B/A Jasco and Target Corp.)

Larry Saret
Michael Best & Freidrich LLP
180 N Stetson Avenue
Suite 2000
Chicago, IL 60601
(Attorneys for Defendant Tripp Manufacturing Company D/B/A Tripp Lite)

Christopher Aaron Shield
Bracewell & Giuliani - Houston
711 Louisiana St
Suite 2300
Houston, TX 77002-2770
(Attorneys for Defendants Overstock.com, Inc., KMart Corporation, Sears Brands, LLC, Sears
Holdings Corporation D/B/A Sears and Sears, Roebuck and Company)

Michael Charles Smith
Siebman Reynolds Burg Phillips & Smith, LLP-Marshall
713 South Washington
Marshall, TX 75670
(Attorneys for Defendants Jasco Products Company LLC D/B/A Jasco Products Company
D/B/A Jasco and Target Corp.)

Andrew W. Spangler
Spangler Law PC
208 N. Green St.
Suite 300
Longview, TX 75601
(Attorneys for Plaintiff AdjustaCam LLC)

Justin Neil Stewart
Zarian Midgley & Johnson, PLLC
960 Broadway Ave
Ste 2500
Boise, ID 83706
(Attorneys for Defendants Newegg, Inc., Newegg.com, Inc. and Rosewill Inc.)

Ezra Sutton

Ezra Sutton & Associates PA

900 Route 9 North

Woodbridge, NJ 07095

(Attorneys for Defendants Fry's Electronics Inc, Sakar International, Inc. and Sakar, Inc.)

Russell T. Wong

Wong Cabello Lutsch, Rutherford & Brucculeri

20333 SH 249

Ste 600

Houston, TX 77070

(Attorneys for Defendants Intcomex, Inc., Klip Extreme LLC and Software Brokers of America Inc. DBA Intcomex Corporation D/B/A Intcomex)

Victor deGyarfas

Foley & Lardner - Los Angeles

555 S Flower Street

Suite 3500

Los Angeles, CA 90071

(Attorneys for Defendant Wal-Mart Stores, Inc.)



Peter Lui